

REMARKS

Interview summary

Undersigned counsel for Applicants sincerely thanks Examiner Davis for extending the courtesy of a personal interview held on October 19, 2006 at the USPTO. As noted in the Interview Summary of same date, arguments were presented to overcome the 35 U.S.C. § 103 rejections. In particular, the compositions presented in the Declaration dated October 25, 2004 and their unexpected effects were discussed.

During the course of the interview, the Examiner expressed concern that some ingredients included in the inventive composition ("Supplement") were not necessarily required of the claimed composition. Apparently, the Examiner was of the opinion that some of those ingredients could, absent evidence to the contrary, have contributed to the observed "unexpected" results and, if so, those ingredients should also be necessary limitations of the claimed invention.

Counsel for Applicants respectfully noted, however, that fully *all* of the ingredients, save for the inventive "oil fraction" are present in the exact same (i.e., control) amounts as in the comparative Control diet. Simply put, those minerals and vitamins could not scientifically have accounted for the unexpected results. The Examiner appeared to agree.

Given this explanation, Applicants believe that the present application is now in condition for allowance. As discussed, the Examiner is kindly asked to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Status of the claims

Claims 42-62 were pending in the instant application. No claims have been amended, canceled or newly added with this Response. Upon entry of this paper, therefore, claims 42-62 will remain pending and under active consideration. Applicants respectfully request

reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim rejections under 35 U.S.C. § 103

Claims 42-48 and 51-62 stand rejected for want of obviousness over a combination of Horrobin, Fugh-Berman, Maggioni and Growdon for reasons detailed in item 3 of the outstanding Office Action. Claim 49 stands rejected for want of obviousness over a combination of Horrobin, Growdon and Pollack for the reasons stated in item 4 and claim 50 stands rejected for want of obviousness over a combination of Horrobin, Growdon and Takeda for the reasons stated in item 5, of the outstanding Office Action. Applicants respectfully traverse this rejection.

Traversal is based on the grounds that Applicants have sufficiently demonstrated that the claimed combination of ingredients provides results that one of ordinary skill in the art would have found “unexpected.” The Examiner appears to agree. As mentioned in the Interview summary above, the Examiner expressed concern that some ingredients included in the inventive composition (“Supplement”) were not necessarily required of the claimed composition, which ingredients could, absent evidence to the contrary, have contributed to the observed “unexpected” results.

It is respectfully noted, however, that fully *all* of the ingredients, save for the inventive “oil fraction” are present in the exact same (i.e., control) amounts as in the comparative Control diet. Simply put, those minerals and vitamins could not scientifically have accounted for the unexpected results. Hence, the all of the unexpected results can be attributed to the claimed oil fraction of the invention (step (a) of the independent claims).

Understood in this light, Applicants respectfully submit that the rejection under Section 103 has been overcome and hereby solicit its withdrawal. Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date November 08, 2006

By 

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